

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed March 14, 2007 (“Office Action”). At the time of the Office Action, Claims 1-11, 13-22, 24, 25, and 27-31 were pending and rejected in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejections

The Examiner rejects Claims 1, 6-8, 11, 13, 16, 19-22, 27 and 28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,047,051 issued to Ginzboorg et al. (hereinafter “*Ginzboorg*”) in view of U.S. Patent No. 6,389,537 issued to Davis et al. (hereinafter “*Davis*”). The Examiner rejects Claims 2-4 under 35 U.S.C. § 103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,905,736 issued to Ronen et al. (hereinafter “*Ronen*”). The Examiner rejects Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,956,391 issued to Melen et al. (hereinafter “*Melen*”). The Examiner rejects Claim 9 under 35 U.S.C. § 103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,970,477 issued to Roden (hereinafter “*Roden*”). The Examiner rejects Claims 10, 14, 15 under 35 U.S.C. § 103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent Publication No. 2002/0059114 issued to Cockrill et al. (hereinafter “*Cockrill*”). The Examiner rejects Claim 17 under 35 U.S.C. § 103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,852,812 issued to Reeder (hereinafter “*Reeder*”). The Examiner rejects Claim 18 under 35 U.S.C. § 103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,778,189 issued to Kimura et al. (hereinafter “*Kimura*”). The Examiner rejects Claims 24 and 25 under 35 U.S.C. § 103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,319,454 issued to Schutte (hereinafter “*Schutte*”). The Examiner rejects Claims 29-31 under 35 U.S.C. 103 (a) as being unpatentable over *Ginzboorg* in view of *Ronen*. These rejections are respectfully traversed for the following reasons.

Unfortunately, this case appears headed for the Appeal process. Applicant has endeavored earnestly to elucidate all the differences between the cited references and the pending subject matter. Alas, it appears that an impasse has been reached. Applicant implores the Examiner to genuinely consider the following arguments before both parties embark on the Appeal process.

*Ginzboorg* is problematic for a number of tangible reasons. For example, Independent Claim 1 recites an architecture in which the provision of the content from the content server to the subscriber terminal is controlled by a proxy. The proxy controls the information flow from the Content Server to the subscriber terminal. Nothing in *Ginzboorg* accounts for this control. *Ginzboorg*, instead, offers a billing server that authenticates or authorizes content: not control its delivery. Just as importantly, *Ginzboorg* fails to discern between chargeable and free content, as its disclosure reads. Applicant has reviewed the portions of *Ginzboorg* cited for this limitation, but has yet to discover any portion of *Ginzboorg* that would be germane to such a teaching.

The proxy of Independent Claim 1 is actually tasked with this determination: not some other random element within the system. As a separate matter, Independent Claim 1 discloses the use of a prepaid amount for the subscriber terminal, which is not taught by *Ginzboorg*. The Examiner relies on *Davis* for this limitation and explains that such a protocol is ‘simple’ and ‘common’ in content provisioning. Applicant respectfully disagrees and is prepared to appeal this issue should the Examiner maintain his current §103 position in regards to this limitation.

For at least these reasons, Independent Claim 1 is clearly allowable over the proposed reference. In addition, Independent Claim 29 includes a limitation that is similar, but not identical, to that of Independent Claim 1. Accordingly, this Independent Claim is also allowable over the proffered combinations using a similar rationale. Additionally, the dependent claims corresponding of these Independent Claims are also allowable for analogous reasons.

Thus, all of the pending claims have been shown to be allowable, as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these pending claims.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fees are due; however, if this is not correct the Commissioner is hereby authorized to charge any amount required or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214.953.6675.

Respectfully submitted,  
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Date: Sept. 19, 2007

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